

**PLANNING ACT 2008**

**INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

**WRITTEN SUBMISSIONS OF NFU REGARDING THE A428 BLACK CAT TO CAXTON GIBBET  
IMPROVEMENT SCHEME DEVELOPMENT CONSENT ORDER 201 [...]**

**SUBMISSIONS OF NATIONAL FARMERS UNION ON THE ISSUE SPECIFIC DCO HEARING ON  
2<sup>nd</sup> DECEMBER 2021**

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**DATE 14<sup>th</sup> DECEMBER 2021**

## 1.0 Introduction

1.1 Submissions on behalf of the National Farmers Union (“NFU”) in respect of the application for a Development Consent Order (DCO) by National Highways (NH) for the A428 Black Cat to Caxton Gibbet scheme. The NFU is making a case on behalf of its members who are affected by the proposed DCO.

## 2.0 Issue Specific Hearing 6: 2<sup>nd</sup> December 2021:

### 2.1 Draft Development Consent Order:

**(a) Article 23 -Authority to Survey and Investigate Land:** The NFU as raised at the hearing would like NH to provide further details as to the type of surveys that will need to be carried out on land, which is adjacent to, but outside Order Limits. As highlighted at the hearing the NFU discussed this with NH at the meeting held on the 24<sup>th</sup> of November 2021 where NH highlighted that it was likely to be for the following types of surveys newts: 250m, badgers: 30m and water voles:500m. If this is the case, then the NFU sees no reason why NH cannot state the type and scope of surveys to be carried out.

The NFU also raised concerns at the hearing that the surveys are supposed to be undertaken ‘**adjacent to** but outside the Order Limits’. The surveys should only take place within the area of the authorised development. The Oxford dictionary describes adjacent as lying near to or contiguous. The NFU believes therefore that surveys should not be undertaken any further away than 500m as any further away, then the surveys are not adjacent to.

It is essential that landowners and occupiers know what land could be disturbed by surveys going forward during the construction of the works so that they can plan cropping rotations and where livestock will be located in advance.

### **(b) Notice Period of 14 days in Articles 23 and 40:**

**Article 23: Surveys:** The NFU confirmed that it is acceptable for a 14 day notice to be served for surveys to be undertaken under Article 23 but it would like to see that HE will agree to a 28 notice where a landowner may need to get a derogation from Natural England/RPA where land is in an environmental scheme like Higher Level Scheme (HLS) or Countryside Stewardship. It will be very difficult to get a derogation from the RPA within 14 days and if a derogation is not obtained then the landowner/occupier could be fined.

**Article 40: Temporary Use of Land:** The NFU as requested would like to see that NH serves a 28 day notice as a minimum on landowners before taking land under temporary possession.

Under Article 40 it states that only 14 days’ notice has to be given to a landowner before entry can be taken by the undertaker. The NFU believes strongly that HE should be able to give a longer notice period of 28 days. It is impossible for a farmer to change operations/cultivations or make arrangements to do something different on an area of land whether crops or livestock within 14 days. It might be that orders for fertilisers, sprays etc have to be changed and there is a greater chance of a change being possible if 28 days is given rather than 14 days. Further a

landowner/farmer may be on holiday for two weeks and if only a 14 day notice was served, they would not even know if it had been served and the notice period would have ended before their return to the farm. It has to be that as a minimum NH serve a 28 day notice and NH should realise that this is necessary and proportionate.

As stated in the last submission if the DCO only states 14 days then NH will only serve a 14 day notice. NH has stated that they will be in discussions with landowners about temporary land take in advance of the 14 day notice and if this is the case then it should be possible to serve a longer notice period.

The NFU would like the notice which is served by NH to take temporary possession to state how long the temporary occupation will be for and for details on the programme of works to be provided by the contractor.